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EDWARD HERNANDEZ
2037 W. Bullard Avenue; Ste. 240
Fresno, California 93711
(559) 779-2425
Plaintiff (*Pro Se*)

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

EDWARD HERNANDEZ

Plaintiff,

v.

ST. CHARLES HEALTH SYSTEMS, a
corporation; BEND NEUROLOGICAL
ASSOCIATES, an Oregon corporation;
MICHAEL L. BELL, as an Agent and an
Individual; LAURA L. SCHABEN, as an
Agent and an Individual; KRISTIN DOE,
as an Agent and Individual; and a
"PHYSICIAN," identity unknown, as an
Agent and an Individual.

Defendant(s).

Civil Case No. 6:17-cv-971-MC

COMPLAINT
(Negligence-Wrongful Death)

JURY TRIAL DEMANDED

Date:
Time:
Dept:
Judge:
Date Action Filed:
Trial Date:

COMPLAINT

1. Plaintiff Edward Hernandez, an Individual, (hereinafter referred to as "Plaintiff") brings this action against Defendant's St. Charles Health Systems, Bend Neurological Associates, Michael L. Bell, Laura J. Schaben, R.N. Kristin (last name unknown), and a yet to be identified "Physician," (hereinafter referred to collectively as "Defendants," or individually by their respective party names). This complaint seeks damages for the intentional, negligent acts

1 of the defendants and for the negligent use of substances which resulted in the death of Plaintiff's
2 brother Jaime Padilla and alleges the following:

3
4 **PARTIES**

5 2. Plaintiff, Edward Hernandez is a resident of the State of California.

6 3. The Plaintiff is informed and believes and on that basis alleges that the Defendant,
7 St. Charles Health Systems, a corporation hereinafter primarily referred to as "St. Charles" is a
8 resident of the State of Oregon and is licensed to operate health care facilities in the State of
9 Oregon.
10

11 4. The Plaintiff is informed and believes and on that basis alleges that the Defendant,
12 Bend Neurological Associates, is an Oregon corporation, with primary place of business in Bend,
13 Oregon.
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15 5. The Plaintiff is informed and believes and on that basis alleges that the Defendant,
16 Michael L. Bell, a natural person, is a resident of the State of Oregon, and is or was, at all times
17 relevant to this Complaint, an employee, agent and/or principal of Defendant's St. Charles and
18 Bend Neurological Associates and personally participated in the allegations made herein.

19 6. The Plaintiff is informed and believes and on that basis alleges that defendant,
20 Laura J. Schaben, is a natural person, place of residence unknown, and is or was at all times
21 relevant to this Complaint an employee, an agent and or principal of Defendant's St. Charles
22 Health Systems and Bend Neurological Associates and personally participated in the allegations
23 made herein.
24

25 7. The Plaintiff is informed and believes and on that basis alleges that Defendant,
26 R.N. Kristin Doe, is a natural person, principal place of residence unknown, and is or was at all
27 times relevant to this Complaint an employee or agent of St. Charles Health Systems and
28

8. The Plaintiff is informed and believes and on that basis alleges that Defendant, Unknown Physician, is a natural person with principal place of residence unknown, and is or was at all times relevant to this Complaint an employee or agent of St. Charles Health Systems and personally participated in the allegations made herein.

9. The Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as Does 1-23, inclusive, therefore the Plaintiff sues the Defendants by such fictitious names. When their true names are ascertained, the Plaintiff will seek leave to amend this Complaint to allege their proper names and capacities. The Plaintiff is informed and believes, and it is on that basis alleges each of these fictitiously named Defendants is in some manner responsible for the events, occurrences and circumstances which form the basis for this action and is therefore liable for damages sought herein.

10. When reference is made to any act of Defendants in this Complaint, such allegations shall be deemed to mean the directors, officers, agents, employees or representatives of the Defendants did, or, authorized such acts while actively engaged in the management, operations, or conduct of the affairs of the Defendants and while acting within the course and scope of their agency, employment or representation.

STATEMENT OF JURISDICTION

11. This Court has subject matter jurisdiction over all matters pursuant to 28 U.S.C. § 1332. Plaintiff is a citizen of the State of California. The Plaintiff is informed and believes that Defendant, St. Charles, is a citizen of the State of Oregon, as it has its principal place of business in Oregon. The amount in controversy, without interests and costs, exceeds \$75,000.

12. This Court has personal jurisdiction over the Defendant, St. Charles, as the

1 Defendant operates hospitals and other medical facilities in the State of Oregon and the
2 Plaintiff's cause of action arises out of the Plaintiff's actions with the Defendant's hospital
3 located in Bend, Oregon.

4 13. The Plaintiff is informed and believes that Defendant, Bend Neurological
5 Associates, is a citizen of the State of Oregon, as it has its principal place of business located in
6 Bend, Oregon. The amount in controversy, without interests and costs, exceeds \$75,000.

7 14. This Court has personal jurisdiction over the Defendant, Bend Neurological
8 Associates, as the Defendant operates a clinic in the State of Oregon and the Plaintiff's cause of
9 action arises out of the Plaintiff's actions with the Defendant's clinic located in Bend, Oregon.

10 15. The Plaintiff is informed and believes the Defendant, Michael L. Bell, is a citizen
11 of the State of Oregon and the amount in controversy, without interests and costs, exceeds
12 \$75,000.

13 16. This Court has personal jurisdiction over the Defendant, Michael L. Bell, acting
14 as an Agent for Defendant's St. Charles and Bend Neurological Associates, as Plaintiff has
15 suffered damages within this state which arises from acts by the Defendant in connection with
16 services rendered within this state in the ordinary course of trade.

17 17. The Plaintiff is informed and believes the Defendant, Laura J. Schaben, is a
18 citizen of the State of Oregon and the amount in controversy, without interests and costs, exceeds
19 \$75,000.

20 18. This Court has personal jurisdiction over the Defendant, Laura J. Schaben, acting
21 as an Agent for Defendant's St. Charles and Bend Neurological Associates, as Plaintiff has
22 suffered damages within this state which arises from acts by the Defendant in connection with
23 services rendered within this state in the ordinary course of trade.

1 19. The Plaintiff is informed and believes the Defendant, R.N. Kristin Doe, is a
2 citizen of the State of Oregon and the amount in controversy, without interests and costs, exceeds
3 \$75,000.

4 20. This Court has personal jurisdiction over the Defendant, R.N. Kristin Doe, acting
5 as an Agent for Defendant's St. Charles, as Plaintiff has suffered damages within this state which
6 arises from acts by the Defendant in connection with services rendered within this state in the
7 ordinary course of trade.

8 21. The Plaintiff is informed and believes the Defendant, Unknown Physician, is a
9 citizen of the State of Oregon and the amount in controversy, without interests and costs, exceeds
10 \$75,000.
11

12 22. This Court has personal jurisdiction over the Defendant, Unknown Physician,
13 acting as an Agent for Defendant's St. Charles, as Plaintiff has suffered damages within this state
14 which arises from acts by the Defendant in connection with services rendered within this state in
15 the ordinary course of trade.
16

17 23. The Plaintiff is ignorant of the true names and the capacity of the Defendant's
18 sued herein as Does 1 through 44 inclusive; therefore, the Plaintiff sues Defendant's by such
19 fictitious names. When their true names and capacities are ascertained, the Plaintiff will seek
20 leave to amend this Complaint to allege the defendant's proper names and capacities. The
21 Plaintiff is informed and believes, and it is on that basis alleges each of these fictitiously named
22 Defendant's is in some manner responsible for the events, occurrences, and circumstances which
23 form the basis for this lawsuit and is therefore liable for damages sought herein.
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25 24. When reference is made to any act of the Defendant's in this Complaint, such
26 allegations shall be deemed to mean that the directors, officers, agents, employees or
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1 representatives of the Defendant's, did such acts or authorized such acts while actively engaged
2 in the management, operations, or conduct of the affairs of the Defendant's and while acting
3 within the course and scope of their agency, employment or representation.
4

5 FACTS

6 25. Plaintiff incorporates all allegations in Paragraphs 1 through 24 of this Complaint
7 as if re-alleged herein.
8

9 26. On or about June 24, 2014, Plaintiff's deceased brother, Jaime Padilla (JP), was
10 administered a yet to be identified freeze agent by paramedics while ambulance was stationed at
11 Emergency located at St. Charles Hospital in Madras, Oregon. The agent induced a coma from
12 which JP never recovered. The unknown "physician" who gave the authorization to administer
13 the unknown agent also has not been identified.
14

15 27. Plaintiff's brother, Jaime Padilla, went into a comatose state and was immediately
16 transferred to St. Charles Hospital in Bend, Oregon.

17 28. On or about June 23, 2014 through June 30, 2014, JP, a diabetic known to suffer
18 from epileptic seizures, an individual with liver damage, and a patient on prescription Narcotics,
19 was administered Diprivan (Propofol) by employees and/or agents of St. Charles Hospital and
20 Bend Neurological Associates, both located in Bend, Oregon. The drug was approved by
21 neurologists, Michael L. Bell and Laura J. Schaben.
22

23 29. On or about June 30, 2014, a tracheotomy was performed on Plaintiff's brother to
24 ease breathing which had become difficult for JP.

25 30. On or about June 30, 2014, upon learning that the agent, Diprivan, was being
26 administered to Plaintiff's brother, Plaintiff communicated with the neurologist in charge of
27 Plaintiff's brother's care, Michael Bell, inquiring as to why agent was being used on a known
28

1 diabetic with an epileptic and narcotic history as patient, Jaime Padilla, was experiencing
2 seizures on a continual basis.

3 31. On or about June 30, 2014, the agent, Diprivan, was eliminated and patient,
4 Plaintiff's brother, Jaime Padilla, ceased to experience seizures.

5 32. On or about July 14, 2014, Plaintiff and family members requested for patient,
6 Jaime Padilla to be transferred to OHSU located in Portland, Oregon as arrangements had been
7 made in advance to make said move in order to obtain a second opinion regarding patients'
8 condition.
9

10 33. On or about July 14, 2014, Dr. Michael Bell, calls to inquire as to why we wish to
11 have JP transferred to OHSU. After several minutes, he agrees to the move, but adds OHSU will
12 not be able to do anything different than the actions already taken in treating Jaime Padilla.
13

14 34. On or about July 14, 2014, R.N. Kristin Doe, without consent or authority,
15 cancels a pre-arranged scheduled move of patient Jaime Padilla to the Oregon Health and
16 Science University (OHSU) located in Portland, Oregon.
17

18 35. On or about July 16, 2014, OHSU refuses to accept JP as a patient. The decision
19 was said to be based on information obtained from St. Charles Hospital and Dr. Bell. An intake
20 official for OHSU, an individual only identified as Caleb, stated that OHSU could not treat JP in
21 a manner that differed from the treatment being obtained at St. Charles Hospital. He further
22 stated that the matter was no longer an administrative decision, it was now a legal matter.
23

24 36. On or about July 27, 2014, St. Charles employees refuse to provide any further
25 medical updates to Plaintiff regarding JP.

26 37. On or about August 8, 2014, upon learning JP was being given morphine, the
27 request was made to stop providing JP with any morphine product.
28

39. On or about August 29, 2014, it was discovered that the long term facility was using morphine to treat JP under the directive of St. Charles.

LEGAL CLAIM

41. Plaintiff incorporates all allegations in Paragraphs 1 through 34 of this Complaint as if re-alleged herein.

43. Defendant's St. Charles, Bend Neurological, Michael Bell, Laura Schaben and the "Unidentified Physician" breached that duty by not reviewing patient Jamie Padilla's well documented medical history with St. Charles Hospital in Madras, Redmond, and Bend, Oregon, prior to administration of yet to be identified freeze agent.

45. Defendant R.N. Kristin Doe, breached duty by cancelling Jaime Padilla's transfer to OHSU without consent or authority thereby effectively eliminating Plaintiff's brother of his last chance (Loss of Chance) at life.

COMPLAINT FOR DAMAGES

1 Plaintiffs' brother, Jaime Padilla.

2 47. As a direct and proximate cause of Defendant's negligence, Jamie Padilla suffered
3 fatal injuries resulting in his death.

4 48. Plaintiff is entitled to recover compensatory damages to compensate for the
5 intentional and/or negligent infliction of emotional distress experienced during the time frame of
6 June 25, 2014 through August 25, 2014, the period of time Plaintiff worked in futility to move
7 his brother, JP, to another health facility and for loss of consortium for the wrongful death and
8 the ultimate demise of Plaintiffs' brother, Jaime Padilla.

9
10 49. For these damages, Plaintiff Edward Hernandez should be awarded an amount to
11 be determined at trial, but in no event less than \$2,500,000.

12
13 50. Plaintiff should be awarded costs and disbursements against Defendant's.

14
15 WHEREFORE, Plaintiff requests a trial by jury and requests the Court should grant
16 judgment in favor of Plaintiff and grant the following relief:

17 (a) On Plaintiff's Claim for Relief against Defendant's, compensatory damages in an
18 amount to be determined at trial but in no event less than \$2,500,000, plus costs and
19 disbursements;

20 (b) Prejudgment and post-judgment interest at the legal rate; and

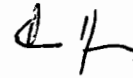
21 (c) For such other and further relief as the Court may deem appropriate under the
22 circumstances.
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24
25 **DEMAND FOR JURY TRIAL**

26 Plaintiff demands a trial by jury on issues triable by right.
27
28

1 Date: June 20, 2017

Respectfully Submitted,

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